



OFFICE OF THE HISTORIAN

PAPERS RELATING TO THE FOREIGN RELATIONS OF THE UNITED STATES, WITH THE ANNUAL MESSAGE OF THE PRESIDENT, TRANSMITTED TO CONGRESS, DECEMBER 4, 1893

Mr. Gresham to Mr. Terrell.

DEPARTMENT OF STATE,
Washington , July 5, 1893 .

No. 14.]SIR: I send you herewith a copy of the correspondence between this Department and the consul at Jerusalem relative to the complaint of one Hyman Rose, a naturalized citizen of the United States, who alleges that he was prevented by the Turkish authorities from selling and conveying certain real estate owned by him in Jerusalem because he is a Jew.

Mr. Rose alleged that the discrimination against him was in consequence of an order or proclamation of the [Page 639] Turkish Government. As Consul Merrill stated that he had no official knowledge of such an order, Mr. Rose was requested to inform the Department of the exact nature and source of his information, and to furnish, if possible, a copy of the proclamation referred to. He has replied in a communication, just received, that his information was derived from a letter written by his father; that he had not seen the proclamation, and even doubted its existence, but presumed the restriction was in consequence of secret instructions. As it seems impossible to secure more definite information from Mr. Rose or from the consul at Jerusalem, you are directed to ascertain in such discreet way as suggests itself to you the position of the Turkish Government with regard to this matter, and to report to the Department the result of your inquiry for further instructions, if need be.

In this connection your attention is called to the real-estate protocol of 1874 (Treaty Volume, p. 824). This protocol has all the force of a treaty engagement and secures to foreigners the right to acquire, hold, and convey real estate upon compliance with the requirements of local laws and regulations on the same footing as native Turks. You will note that there is no restriction whatever placed upon the enjoyment of this right by aliens, save in respect to "subjects of Ottoman birth who have changed their nationality." It is declared that they "shall be governed by a special law." This Government has never been informed of this special law, but it can have no relation to a prohibition alleged to rest on a religious disqualification. If an American citizen be denied the right to acquire or dispose of real estate under the rescript of 1867 and the protocol of 1874 because he is alleged to be of a certain religious faith, this Government would be bound to protest against such a discrimination as inadmissible. No religious test can be recognized by this Government, and equal rights under treaties are claimed for all American citizens regardless of the faith they profess.

I am, etc.,

W. Q. GRESHAM.

[Inclosure 1 in No. 14.]

Mr. Quincy to Mr. Merrill.

DEPARTMENT OF STATE,
Washington , March 28, 1893 .

No. 20.]SIR: I inclose herewith a copy of a letter, received at this Department on the 23d instant, from Hyman J. Roos, of New York, who claims to be an American citizen, relative to certain landed property owned by him in Jerusalem, which he complains that he can not sell in consequence of a proclamation of the Turkish Government forbidding Jews to make transactions in real estate. You are instructed to investigate this matter, and if the case appears a proper one for your interference, you will do what you can to protect Mr. Roos's interest, if he be registered as a citizen of the United States.

The result of your efforts should be reported to the Department.

I am, etc.,

JOSIAH QUINCY,
Assistant Secretary.
[Page 640]

[Inclosure in inclosure 1 in No. 14.]

Mr. Boos to Mr. Gresham.

NEW YORK , March 21, 1893.

SIR: Respectfully undersigned is an American citizen who owns some landed property in the city of Jerusalem, Palestine, Asia. Wanting to sell the aforementioned property he is unable to do so in consequence of a proclamation issued by the Turkish Government forbidding to Jews all transactions in real estate. Undersigned being a Jew is hindered in disposing of his lawful property.

Has the Government of the United States of America; official knowledge of this arbitrary discrimination against citizens of the United States of America on account of their religious belief.

Is the Government of the United States willing to try inducing the Turkish Government to stop abridging the rights of American citizens?

I remain, etc.,

HYMAN J. ROOS.

[Inclosure 2 in No. 14.]

Mr. Quincy to Mr. Merrill.

DEPARTMENT OF STATE,
Washington , April 10, 1893 .

No. 21.]SIR: Referring to the Department's instruction No. 20, of the 28th ultimo, relative to certain landed property in Jerusalem owned by one Hyman J. Roos, who claimed to be an American citizen, I have to state that this Department is in receipt of his certificate of naturalization and that his name appears to be Hyman Rose, and not Hyman J. Roos, as given in his letter of March 23 last.

I am, etc.,

JOSIAH QUINCY,
Assistant Secretary.

[Inclosure 3 in No. 14.]

Mr. Merrill to Mr. Quincy.

CONSULATE OF THE UNITED STATES,
Jerusalem Syria , May 8, 1893 . (Received June 5.)

No. 49.]SIR: I have the honor to acknowledge the receipt of your dispatches Nos. 20 and 21, dated, respectively, March 28 and April 10, 1893, both having reference to Hyman Rose and his inability to carry on transactions in land in this country because of a proclamation issued by the Turkish Government forbidding to Jews that right.

The Department is aware that by the treaty all matters pertaining to land, including buying and selling, mortgaging, building, repairs, rents, and the like, are entirely beyond the jurisdiction of the consulate, and are absolutely under the control of the Turkish authorities. They guard this right with the utmost jealousy, and resent anything that appears like interference with their legitimate province. Consequently, I have never seen such an order as Mr. Rose refers to, nor has the governor ever sent me any communication on this subject. All the consuls are treated alike in this matter. If the consul were to ask the governor about it, the question would be regarded as an impertinent one. Thus far I know officially nothing about such an order.

On the other hand, I know that the Jews have stopped buying and selling land, and the cause assigned is the same as that given by Mr. Rose. I have repeatedly urged some of our American Jews, since such an order was said to have been issued, to make a trial case, bring to me the usual papers, and I would forward them to the governor, and we would soon learn the facts. In every case they have declined to do this, fearing it might involve them in some slight expense. Had they presented such papers to be forwarded as usual, and they had been returned to me, I should then have had ground for action, and should have promptly reported the matter to Constantinople and Washington. The consul cannot base "a report to the Department of State upon rumors alone.

I have conferred with Messrs. Frutiger & Co., bankers in this city, with regard to this matter and they say they have reason to think that the order referred to will very soon be modified or annulled altogether. I mention this because this particular firm has more to do with Jewish land transactions than any other firm or individual here. As soon as I become aware of [Page 641] any change I will notify the Department.

The Turkish Government claims the right of discriminating against what it regards as an objectionable class—in this case, the Jews—the same, they say, as the United States discriminates against the Chinese, and the fact that a Jew belongs to this or that nation does not remove him, in their estimation, from the class to which objection is specially made.

Whenever an American citizen wishes to buy land, he presents to the consulate a certain petition which is forwarded to the governor according to the two forms herewith inclosed.

I remain, etc.,

SELAH MERRILL.

[Inclosure in No. 49.]

Forms used in this consulate when an American citizen wishes to buy land.

To the consul of the United States, Jerusalem:

SIR: I, the undersigned, a citizen of the United States, beg to inform you that I wish to buy of Mr. a piece of land of _____ dimensions, situated in _____, and I request you to transfer this petition to the local authorities and likewise to declare to them my citizenship.

(Signed by the petitioner.)

To his excellency the governor of Jerusalem:

EXCELLENCY: The foregoing petition has been presented to this consulate by Mr. _____, a citizen of the United States, who wishes to buy a piece of land as stated in his petition, and I humbly request you to transfer the same to the proper department for their action.

I take this opportunity, etc.

(Signed by the consul.)

Date and seal.